RECORD OF PROCEEDINGS

IN THE MATTER OF: XXXXXXXXXXXXXX

DOCKET NUMBER: BC-2023-00336

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His mental health records and diagnosis from Dec 19 to Mar 20 be removed from his records.

APPLICANT'S CONTENTIONS

He was subject to unethical practices, falsified records, manipulation and more by the mental health clinic. Upon his squadron commander's (SQ/CC) return from leave, she put a stop to what was being done to him. There were no issues prior to this event and no issues followed.

He was a 19 year old airman first class (E-3) when berated, manipulated and retaliated against by his mental health provider. His SQ/CC recommended his retention with retraining and stated she disagreed with the mental health provider's recommendation and that the system had failed him.

In Dec 19, his ex-girlfriend made false allegations he was suicidal, which led to him being taken to the hospital. The mental health provider at the hospital and his first sergeant both agreed he was not suicidal. His ex-girlfriend again made false allegations he was suicidal and that he had placed a gun in his mouth. He was again taken to the hospital and was admitted from 23 to 26 Dec 19 after refusing to state he was suicidal. On 6 Jan 20, he received pictures from her through Skype which appeared she had cut her wrist and was harming herself. He informed the first sergeant and told him of the constant phone calls. On 8 and 10 Jan 20, he was issued two separate letters of reprimand (LOR) for violating a previously issued no contact order. The LORs were downgraded to letters of counseling (LOC) after his responses.

It has been more than three years since the incidents, yet the mental health records remain active. He is now a 22 year old staff sergeant (E-5). There have been no problems and he has flourished. No airman should have to go through what he endured. The mental health provider used her knowledge to mentally break him down, manipulate him and even falsified records that should be removed from his records.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving staff sergeant (E-5) in the Air Force.

The applicant provides the following mental health documents with his annotations, to include that some of the events did not occur:

a. On 9 Dec 19, he was diagnosed with Irritability and Anger and Problems in Relationship with Spouse or Partner. On 7 Dec 19, he was asleep in his bed when a security forces squadron (SFS) member entered his room and removed his weapon and gear. It was reported his flight chief and acting first sergeant were taking him to the hospital for suicidal ideations. His ex-girlfriend

had called the law enforcement desk and reported he was suicidal. The applicant relayed to mental health he was irritated that his leadership would take her word over his. He was placed in a Do Not Arm (DNA) status.

b. On 23 Dec 19, his mental health provider indicated he was a self-referral with chief complaint of relationship issues. He was unable to sleep for 48 hours due to the relationship issues and notified his leadership. He was taken to the emergency room twice in the past two weeks due to his ex-girlfriend contacting the law enforcement desk and expressing he was suicidal.

c. On 26 Dec 19, he was diagnosed with Other Specified Problems Related to Psychosocial circumstances. He was discharged from inpatient care on 26 Dec 19 after being on hold since 23 Dec 19. His ex-girlfriend contacted the law enforcement desk and made a statement he had put his weapon in his mouth and pulled the trigger several times. His commander had given him a no-contact order. He noted he was successful at not responding to her but on this date, she had placed a hold on her credit card and was cutting herself on Skype. While at the emergency department, the first sergeant showed the attending physician some of the messages who then placed the applicant on a hold status. The applicant was noncompliant for some time but finally participated adequately and it was determined he no longer met involuntary hold criteria and was discharged.

d. On 30 Dec 19, he was diagnosed with Relationship Problems. The mental health provider requested memorandums for record (MFR) from his chain of command documenting behaviors the applicant exhibited that may build upon an administrative separation recommendation. The mental health provider noted that compared to the general population, the applicant was at an elevated risk for suicide due to impulsivity, anger and immaturity. The provider indicated he was not suitable for continued military service. He was referred for administrative separation processing and a DNA status.

e. Later on 30 Dec 19, he was diagnosed with Adjustment Disorder with Depressed Mood, Problems in Relationship with Spouse or Partner and Suicidal Ideations. The mental health provider noted he still continued to deny responsibility associated with his DNA status and became upset when notified of his potential administrative separation. The applicant was hospitalized four times in the past month due to him allegedly making suicidal statements or gestures to his ex-girlfriend. He was brought to the emergency room after passing out during his morning fitness assessment test and made another suicidal statement in front of paramedics. The applicant had recently demonstrated instances of inappropriate verbal aggression towards her, his leadership and his friends and family members.

f. On 6 Jan 20, the applicant reported he was again taken to the emergency room after suffering adverse reaction from an over the counter (OTC) medication. He also reported continued incidents regarding his ex-girlfriend contacting his unit and that he received multiple phone calls and angry text messages.

g. On 8 Jan 20, his mental health provider amended an encounter. His diagnosis was updated to Adjustment Disorder with Depressed Mood (in patient facility), Intermittent Explosive Disorder. His prognosis was poor and suicide risk level was updated to intermediate risk. Profile was needed for no deployment, permanent change of station (PCS), temporary duty (TDY) assignment or access to weapons. It stated he was not suitable or fit for military service and he was referred for administrative separation.

g. On 9 Jan 20, the applicant was diagnosed with Conduct Disorder. He apparently had been so angry he placed his weapon in his mouth and dry fired it. He noted many of his difficulties were because his ex-girlfriend was stalking him. She would call and show him how she was actively cutting herself. He had a no contact order placed, which he broke. His commander and first sergeant noted they had lost confidence in him. On this date he indicated no one listened to him and he disagreed with the diagnosis.

h. On 16 Jan 20, he was diagnosed with Conduct Disorder, Unspecified and Adjustment Disorder with Depressed Mood. The applicant discussed his recent disciplinary actions and that he received an LOR.

i. On 21 Jan 20, he was diagnosed with Encounter for Other Administrative Actions, Adjustment Disorder with Depressed Mood and Conduct Disorder, Unspecified. The multi-disciplinary clinical case conference determined he was an intermediate risk for suicide. It stated he was in a DNA status for medication, relationship stressor and suicidal ideation. He stated he was ordered to report to his SQ/CC the following day in his dress blues but did not know the reason. He repeatedly raised his voice and was rude after multiple corrections. Upon being notified the session had ended, he began to cry and apologize.

j. On 27 Jan 20, he was diagnosed with Adjustment Disorder with Depressed Mood. He presented without his homework. He stated he played video games all weekend. The session was curtailed and the mental health provider indicated a safety check would be completed on that day.

k. On 29 Jan 20, his diagnosis was Intermittent Explosive Disorder, Adjustment Disorder with Depressed Mood and Conduct Disorder, Unspecified. The applicant responded with deflection of his behavior, nonacceptance of his diagnosis and refusal to participate further in mental health treatment. Due to increased risk, his command team was informed to coordinate safety planning and that he was to check in.

AF Form 590, *Withdrawal/Reinstatement of Authority to Bear Firearms*, dated 27 May 20 shows the applicant's SQ/CC initiated the withdrawal of the applicant's right to bear firearms per AFI 31-117, *Security Forces Standards and Procedures*, which stated there must be no evidence of a personality disorder or untreatable emotional instability to include depression or suicidal ideations. On 1 Jun 20, the wing commander (WG/CC) approved the withdrawal of the applicant's right to bear firearms.

AF Form 2096, *Classification/On-the-Job Training Action*, dated 12 Jun 20 shows the applicant's Air Force Specialty Code (AFSC) 3P031(Security Forces) was removed and changed to 9A000 (Awaiting retraining-reasons beyond control).

In a letter dated 16 Oct 20, his SQ/CC recommended he be retrained. He was a dedicated and hard working airman who had a momentary lapse in judgement while she was away on maternity leave from Nov 19 to Feb 20. Based on the incident, the acting commander made the decision to permanently withdraw the applicant's ability to carry weapons and proceeded to try and administratively separate him. She disagreed with the disciplinary actions and the recommendation from mental health. It was too late to stop the process; however, the administrative discharge action was stopped. It was obvious the system and current leadership failed him by not allowing for progressive discipline or allowing him the opportunity to get the help needed. Despite the setback, he remained driven and focused. The military personnel data system (MilPDS) shows the applicant's AFSC is now 6C051 (Contracting Specialist).

On 17 Nov 22, the applicant requested the base Health Information Portability Accountability Act (HIPAA) office amend or correct his mental health records for encounters with [redacted] from 9 Dec 19 to 27 Feb 20. On 12 Dec 22, the HIPAA office denied the request stating there were no unethical practices and the provider stated the treatment was voluntary. The HIPAA office also stated the medical diagnoses during the time of Dec 19 to Mar 20 were accurate and consistent with the documented and reported behavior from Dec 19 to Mar 20.

On 3 Jan 23, the applicant filed an inspector general (IG) complaint that the mental health clinic from Dec 19 to Mar 22 retaliated, used unethical practices, created false records and disclosed

HIPAA information without a proper release. He requested the mental health treatment records from Dec 19 to Mar 20 be removed. On 18 Jan 20, the IG informed the applicant they conducted a complaints analysis in accordance with AFI 90-301, *Inspector General Complaints and Resolution,* the analysis did not show credible evidence of a violation of law, regulation or policy. In an additional response dated 18 Jan 23, the WG/IG informed the applicant the issues concerning unethical medical practices and false medical records should be addressed in accordance with DoDI 6000.14, *DoD Patient Bill of Rights*. The applicant's complaint was considered closed.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.4, The Board normally decides cases on the written evidence contained in the record. It is not an investigative body; therefore, the applicant bears the burden of providing evidence of an error or injustice.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor recommends denial and fully concurs with the findings and opinions of the HIPAA officer and the mental health clinic. The applicant was assessed, evaluated, observed and treated by numerous duly qualified providers (military and civilian) and they were consistent with their clinical impressions of the applicant's behaviors and functioning at the snapshot time from Dec 19 to Mar 20. Their diagnostic opinions were well supported. They documented comprehensive rationale for their findings and diagnosis. Their clinical judgments and opinions appeared to have been well within the parameters of their professional expertise and training and were consistent within their areas of practice and consultation. They have the right to assert their professional opinions regardless of whether the applicant would concur or be satisfied with their findings. The applicant did not submit any compelling evidence to demonstrate his evaluations and diagnoses were made in error or was unjust.

The applicant was in an unhealthy relationship with his ex-girlfriend at the time. His relationship problems caused him significant distress exacerbating his symptoms and maladaptive behavioral patterns. His behaviors and problems produced occupational problems for him resulting with his leadership losing confidence in him, removal of his AFSC and withdrawal of his ability to carry weapons. His service treatment records show during a 9 Dec 19 session, the applicant discussed the text message communication between he and his ex-girlfriend in which he does not correct her when she references her belief he was suicidal. On 10 Dec 19, a note was included that the bulk of the new and clear information showed the applicant was not actually having suicidal ideations and the veracity of the report from his significant other was in question. He was returned to duty with a DNA profile. On 19 Dec 19, the applicant was taken to the emergency room after it was discovered he had not slept in 48 hours. He confirmed he wished to be voluntarily seen in the mental health clinic and expressed he wanted to be seen by the provider who completed his post-hospitalization the week prior. On 23 Dec 19, he expressed to his provider he refused to block her phone number in case she had an emergency. On 26 Dec 19, a mental health provider wrote his suicidal comments were attention seeking. The attending physician agreed to place him on a 24 hour hold due to his impulsive actions and potential suicidal ideations. On 24 Dec 19, the ex-girlfriend contacted the law enforcement desk about the applicant's suicidal ideation. Various unit members then attempted to contact the applicant who had turned off his phone. They drove around looking for his vehicle and he was apprehended. The applicant was taken to the emergency room and the provider on 24 Dec 19 indicated he was unable to evaluate the applicant due to his aggressive and unintelligible behavior. The acting commander was with the applicant at the ER and caught the applicant in several lies associated with violating a no contact order. There are

screen shots of text messages where he is making suicidal statements. He was irritable, angry and oppositional. As such, a formal evaluation and full comprehensive psychiatric assessment could not be completed. On 30 Dec 19, his acting commander and first sergeant expressed frustration with the applicant's continued behavior and mission disruption. The acting commander advised he planned to pursue administrative separation, keep him in a permanent DNA status and pursue AFSC removal. The provider asked for MFRs to build upon the administrative discharge documentation. On 30 Dec 19, he attended his weekly safety check and became upset when notified of his potential administrative separation and had to be told to stop yelling. He continued to deny he was suicidal and that everyone else was lying. The chart review also showed the applicant harassed his ex-girlfriend's friends and family over a period of time. On 4 Feb 20, a mental health technician noted the applicant refused to engage in mental health services despite being on the high interest list. On 5 Feb 20, per his request for a second opinion, another mental health provider reviewed the case and concurred with the diagnosis given and the administrative separation recommendation. He was advised the administrative separation recommendation would remain. On 25 Feb 20, the applicant declined to continue treatment. On 27 Feb 20, the primary mental health provider noted termination of services following the notification of administrative discharge.

Upon return from maternity leave, his SQ/CC disagreed with mental health's recommendations but conceded he had a "momentary lapse in judgment." The SQ/CC did not witness the applicant's decompensated mental health status that were consistently observed by numerous medical and mental health professionals. The SQ/CC was within her authority to accept or deny the recommendation by his mental health provider and her decision to terminate administrative discharge action does not indicate his mental health provider's recommendation was erroneous or unjust. His commander claimed his leadership failed him by not allowing him the opportunity to get the help needed. However, the statement is not true because his mental health treatment team provided individual psychotherapy, safety checks, evaluations and case management services to help him but he was unwilling to be engaged in the services. His leadership was frequently involved as evidenced by numerous records with his mental health team.

The applicant alleged his mental health providers documented false information and engaged in unethical practices and manipulation to get him discharged. However, there is no evidence to support the allegations. It would have been harmful if he was not monitored for safety because he repeatedly demonstrated and displayed unsafe and questionable behaviors that were worrisome such as texting farewell messages, making suicidal gestures and statements to seek attention, sleep issues causing disorientation and admitting to a psychiatrist at the hospital's psychiatric unit he gestured he had dry fired his firearm into his mouth to make his ex-girlfriend think he was suicidal. He repeatedly denied any suicidal ideation but exhibited impulsive acts, poor insight and poor judgment elevating his safety risk. His providers reiterated his treatment was voluntary but that it was highly recommended he cooperate and develop coping skills to reduce his safety risk. All of his providers responded appropriately to his behaviors and circumstances to assist with keeping him safe despite his resistance to intervention services. He was not amenable to any type of intervention. His mental health provider met with him for safety checks because of his elevated safety risk, questionable suicidal behaviors and gestures. His treatment was eventually terminated because of his continued refusal to engage in mental health treatment, which would indicate his treatment was voluntary and not forced as claimed. The AFRBA Psychological Advisor concurs with the mental health provider's opinion that his appropriate behavior today does not negate his previous misconduct or invalidate the medical assessment of the trained and experienced mental health clinicians during the stated time.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 1 Mar 23 for comment (Exhibit D), and the applicant replied on 2 Mar 23. The applicant annotated comments on the AFRBA Psychological Advisor's opinion. He asks the Board to keep in mind he was not truly aware of what was taking place. Had he known and had proper leadership, he would have documented everything for evidence. Unfortunately, there is a mountain of records he did not know existed. He expressed he wanted to be seen by the provider who completed his post-hospitalization. This was before the situation devolved. He wanted to speak to someone he knew and not a new person as the situation was embarrassing. The acting commander told him to "play the politics." Some of the medical notes are not true or did not occur. He asks the Board to consider the 10 Dec 19 note written by the mental health provider and reviewed by the chief of medical staff that given the bulk of the new and clear information, it appeared he was not actually having suicidal ideations and the veracity of the report from his significant other of his suicidal ideations was in question. The medical note that he admitted to the provider at the hospital he was suicidal is an untrue statement. Had he known then what he knows now he would have asked for a new mental health provider in Dec 19. It was also a veiled threat that the mental health clinic would reach out to his command regarding his continued service and future arming. He wished there was documentation from his side to refute the 27 Feb 20 entry he was non-compliant, did not complete homework assignments, refused to accept responsibility and terminated treatment upon the administrative separation recommendation. His treatment records show he was receiving voluntary mental health treatment but "highly recommended" in the military means "voluntold." With respect to his impulsiveness, he was 19 years old.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.

2. The applicant exhausted all available non-judicial relief before applying to the Board.

3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends he was subjected to unethical practices and manipulation by his mental health providers and his mental health records include false and inaccurate information. However, the Board finds the applicant has not sustained his burden of proof to warrant removal of his mental health records for the time period Dec 19 to Mar 20. In this respect, the Board is not an investigative body and reviews cases based on the evidence in the record. The evidence clearly shows the applicant was in an unhealthy relationship with his ex-girlfriend and the relationship issues caused occupational problems and maladaptive behavior resulting in his hospitalization for suicidal ideations. The applicant violated a no contact order and continued to communicate with his ex-girlfriend. While the applicant contends he was not suicidal, the Board finds based on his behavior the actions of his chain of command and the mental health providers were proper, intended to prevent harm and keep him safe and to preclude any mission impact. While it was within the SQ/CC's authority and discretion to recommend the applicant be retrained instead of discharged, the Board finds the recommendation for retention with retraining insufficient to conclude the applicant's mental health diagnosis and records for the period Dec 19 to Mar 20 were incorrect. Moreover, the Board is pleased the applicant is doing well; however, his current performance is insufficient to refute the mental health diagnosis and records at the time were in error or resulted in an injustice. Therefore, the Board recommends against correcting the applicant's records.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2023-00336 in Executive Session on 26 Jul 23:

, Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 19 Jan 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFBCMR Psychological Advisor, dated 22 Feb 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Mar 23.
Exhibit E: Applicant's Response, w/atchs, dated 2 Mar 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.